

## REMARKS

Claims 1-19 stand rejected. Claim 11 is cancelled herein without prejudice to further prosecution. Independent claims 1 and 16 are amended herein to recite a microtube comprising a container having an open end defining an opening for receiving materials to be contained and a closed end, the open end having a perimeter wall, and a flange extending outwardly and upwardly therefrom, wherein the flange is positioned lateral to the perimeter wall of the microtube when the lid makes closing contact with the open end. Support for these amendments can be found in the specification at, for example, page 3, lines 27-29; page 5, line 30, to page 6, line 2; page 6, lines 10-12; and Figures 1-4.

In addition, the dependency of claim 10 is amended herein, and new claim 20 is added. Claim 20 recites a microtube comprising a container having an open end defining an opening for receiving materials to be contained, and a closed end, the open end having a perimeter wall; and a lid connected to the container by a hinge and adapted to make closing contact with the opening of the container, wherein a portion of the lid adjacent to the hinge extends upwardly at an angle of about 90 degrees and is lateral to the perimeter wall of the microtube when the lid makes closing contact with the opening, and is arranged to pivot about the hinge and move toward the closed end of the container upon application of a mechanical force to a surface of the upwardly extending portion of the lid, so as to remove the closing contact and open the container. Support for claim 20 can be found in the specification at, for example, page 3, lines 27-29; page 5, line 30, to page 6, line 2; page 6, lines 10-12; and Figures 1-4. No new matter is added by any of the amendments presented herein.

In light of these amendments and the following remarks, Applicants respectfully request reconsideration and allowance of claims 1-10 and 12-20.

### Rejections under 35 U.S.C. § 103

The Examiner rejected claims 1-19 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Perlman (U.S. Patent No. 5,225,165) in view of Kassis et al. (U.S. Patent No. 4,534,483) (hereinafter "Kassis"). Specifically, the Examiner alleged that although Perlman does not explicitly disclose a microtube having a flange positioned within the half of the lid

proximal to the hinge, Kassis discloses a cap enclosure device having a flange positioned within the half of the lid proximal to the hinge and extending upwardly at an angle of about 90 degrees. The Examiner further alleged that "it would have been obvious to one skilled in the art to combine the specific flange embodiment of Kassis with the microtube of Perlman." Office Action at page 3.

Without acquiescing to the Examiner's rejection and to further prosecution, Applicants have amended independent claims 1 and 16 to recite a container having an open end defining an opening for receiving materials to be contained, and a closed end, the open end having a perimeter wall; and a lid adapted to make closing contact with the open end; wherein the lid is provided with a flange extending outwardly and upwardly therefrom, wherein the flange is positioned lateral to the perimeter wall when the lid makes closing contact with the open end. The present claims are patentable over the cited combination of references.

An obviousness analysis under § 103 requires consideration of the factors set forth in *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966), including an analysis of the scope and content of the prior art and the differences between the claimed subject matter and the prior art. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). With respect to this requirement, Applicants respectfully submit that none of the cited references, either alone or in combination, teach the particular combination of features of the presently claimed microtubes, which include a flange on the lid that is positioned lateral to the perimeter wall of the microtube when the lid makes a closing contact with the open end. As acknowledged by the Examiner, Perlman fails to explicitly disclose a microtube wherein the flange extends upwardly at an angle of about 90 degrees. Office Action at page 2. In order to bridge the gap between Perlman and the instant claims, the Examiner cited Kassis, which teaches a culture flask having a cap with an upwardly extending tab. Kassis does not, however, teach or suggest a flange that is positioned lateral to the perimeter wall of the vessel when the lid makes closing contact with the open end, as recited by present claims 1 and 16. In fact, none of the embodiments of Perlman or Kassis include such a flange in such a position. Accordingly, a person of ordinary skill in the art as of Applicants' priority date, reading Perlman and Kassis, would not have found it obvious to make a microtube having the features recited in the present claims.

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For at least the reasons presented herein, the combination of references cited by the Examiner does not render the present claims obvious. In light of the above, Applicants respectfully request withdrawal of the rejection of the claims under 35 U.S.C. § 103(a).

### **CONCLUSION**

Applicants submit that claims 1-10 and 12-20 are in condition for allowance, which action is respectfully requested. The Examiner is invited to telephone the undersigned agent if such would further prosecution.

Please charge \$130 for the extension of time fee, and apply any other charges or credits, to deposit account 06-1050, referencing Attorney Docket No. 18880-0002US1.

Respectfully submitted,

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/Elizabeth N. Kaytor/

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